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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,065	08/17/2001	Kazuhiko Nobe	Q65710	2593

7590

04/19/2004

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

EXAMINER

SAGER, MARK ALAN

ART UNIT	PAPER NUMBER
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3714

11

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,065

Applicant(s)

NOBE ET AL.

Examiner

M. A. Sager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,10,12,13 and 15 is/are allowed.
- 6) ☒ Claim(s) 3,11 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/18/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Information Disclosure Statement

1. The information disclosure statement filed Feb 18, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. Specifically, no copy of foreign document JP 2000-37491 was provided. It has been placed in the application file, but the information referred to therein has not been considered.
2. The information disclosure statement filed Feb 18, 2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Specifically, no translation of foreign document JP 2000-37491 was provided. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 8-13 (as amended in paper rec'd 1/23/04) been renumbered 10-15 since claims 8-9 were previously cancelled.

4. Claim 3, 11, 14 is objected to because of the following informalities: 'method' is redundant to 'process'. Appropriate correction is required.

Claim Rejections - 35 USC § 102

Claim 3, 11, 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki or Sagawa (6379244). This holding is maintained for cited claims from prior official action and is incorporated herein. Response to Applicants' remarks is provided below and is incorporated herein.

Allowable Subject Matter

5. Claim 1-2, 4, 10, 12-13, 15 is allowed.

Response to Arguments

Applicant's arguments filed Jan 23, 2004 have been fully considered but they are not persuasive. First, in response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., changing function with respect to the first player is based on a result of evaluation of the second player's stepping performance and said changing with respect to the second player is based on a result of evaluation of the first player's stepping performance and guidance level for one player is based on performance of the other player) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Specifically, invention of claim 3, 11, 14 recites in part, a timing acquisition step, a timing guidance step, a game operation evaluation step and a guidance level changing step which fails to preclude a guidance level changing step of changing a predetermined guidance level based on performance of same respective player.

Regarding Applicants' assertion that Sagawa and Suzuki do not teach a guidance level changing means for changing a predetermined guidance level on the basis of evaluation of a player's performance, the examiner respectfully disagrees. As best understood, Sagawa (abs, 1:60-64, 2:1-5 & 59-64, 3:3-6, 25-44 & 49-57, 6:17-40 & 65-67, 7:28-50, 9:14-26, 12:23-33, 13:49-16:32, figs. 9-10, 12, 17-18) and Suzuki (abs, 1:55-67, 3:16-20, 4:17-18, 7:51+65, 8:40-67, 9:6-25, 11:6-67, 12:34-39, fig. 9, 13) each teach a guidance level changing means, as broadly claimed. Also, it is noted that Applicant admits in filed remarks, on page 6 bottom paragraph, Suzuki (beginning at col. 11, line 7, and with regard to the flowchart in Fig. 13) teaches that the level of difficulty is increased, decreased or kept the same on the basis of the performance of an individual performer.

Claims 11, 14 were not further remarked as to patentability; however, Sagawa (3:3-6 & 35-39, 62A, 62B) and Suzuki (11:7-15:29) each teach these steps, as broadly claimed.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

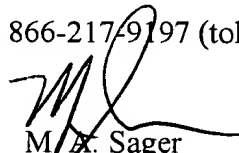
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 703-308-0785. The examiner can normally be reached on T-F, 0700-1700 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


M. A. Sager
Primary Examiner
Art Unit 3714

MAS